

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

BASF CORPORATION,

Plaintiff,

v.

SNF HOLDING COMPANY, ET AL.,

Defendants.

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) Civil Action No.: 4:14-cv-02733
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**REPLY MEMORANDUM IN SUPPORT OF DEFENDANTS' MOTION FOR
LEAVE TO FILE A REPLY MEMORANDUM IN SUPPORT OF
THEIR MOTION TO TRANSFER VENUE PURSUANT TO
28 U.S.C. § 1404(A), OR ALTERNATIVELY A MOTION FOR
RECONSIDERATION OF THIS COURT'S ORDER DENYING TRANSFER**

Defendants made its motion for leave to file its Reply because it believes the Reply contains important information for the Court to consider in making a final decision on whether to exercise its discretion to transfer this case. Motion at 1-2. The Court has the power, in its discretion, to consider Defendants' Reply, or to reconsider its prior decisions. *See Brown v. Baylor Healthcare Sys.*, H-08-0372, 2009 WL 1342933, at *2 (S.D. Tex. May 11, 2009) (noting court has power to consider motion to reconsider interlocutory order so long as motion is not unreasonably delayed); *Schiller v. Physicians Res. Grp. Inc.*, 342 F.3d 563, 568-67 (5th Cir. 2003) (finding district court did not abuse its discretion in deciding motion for reconsideration). This particularly should apply where, as in this case, the initial decision was made without the benefit of a Reply.

There is good reason that Defendants asked this Court for leave to file its Reply Memorandum. The purpose of a reply is to inform the Court about the flaws in an opposing parties' response so that the Court will have the benefit of that information when deciding the

underlying motion. Defendants' Transfer Reply in this case is no different. The Reply contradicts the mischaracterizations made by BASF in its Opposition arguing that Defendants were attempting to reserve the right to contest jurisdiction in Georgia.¹ To the contrary, the existence of Georgia jurisdiction over Flopam and SNF France (as well all the other Defendants) is clear and has never been contested by Defendants. BASF does not deny that this information is pertinent and important to whether transfer should be granted, nor does it contest any of the information presented in the Reply.

As set forth in Defendants' Motion (at 1-2), BASF had *agreed* to Defendants' extension of time to file a Reply and the parties timely followed the protocols to inform the Court of the agreed-upon extension of time. While Defendants' recognize, of course, that this Court has the discretion to decide the transfer motion without waiting for a Reply, in light of the fact that the parties had agreed on a date for the filing of a Reply, this is all the more reason that the Court should grant Defendants' motion for leave to file its Reply.² And upon consideration of the Reply, and the other information of record, Defendants urge that this case be transferred to the Southern District of Georgia.

¹ According to BASF, because certain SNF defendants (Flopam and SNF France) were contesting jurisdiction *in Texas*, there was every reason for them to believe that jurisdiction *in Georgia* over those defendants was in dispute. BASF Mem. at 5. This has no merit. *Whether there is jurisdiction over these defendants in Texas has nothing to do with whether there is jurisdiction over them in Georgia.* For example, Flopam challenges jurisdiction in Texas because it has no presence in Texas and sells to no Texas companies. But it has its principal place of business in Georgia. Obviously, there is jurisdiction in Georgia.

² It is possible that when the Court entered its Order denying transfer, it was not aware of the parties' agreement to extend the date for the Reply and might have thought that no Reply was being submitted. If that is so, it is all the more reason that the Court should consider Defendants' Reply before making a final decision on whether to transfer this case.

Dated: June 19, 2015

Respectfully submitted,

By: /s/ Danny L. Williams

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SAS*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served on June 19, 2015, with a true and correct copy of this document via the Court's ECF system per LR 5.1.

/s/ Donna Ward
Litigation Paralegal